

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

ELIANA EPSTEIN, on behalf of herself
individually and on behalf of all others similarly
situated,

Plaintiff,

v.

ENZO BIOCHEM, INC., ENZO CLINICAL
LABS, INC., and LAB CORPORATION OF
AMERICA HOLDINGS,

Defendants.

TONY JOHNSON, individually and on behalf
of all similarly situated persons,

Plaintiff,

v.

ENZO BIOCHEM, INC., ENZO CLINICAL
LABS, INC., AND LAB CORPORATION
AMERICAN HOLDINGS,

Defendants.

MARIE V. NETROSIO, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

ENZO BIOCHEM, INC. AND ENZO
CLINICAL LABS, INC.

Defendants.

Case No. 2:23-4282

F I L E D
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUL 10 2023 ★

LONG ISLAND OFFICE

Case No. 2:23-cv-04291

Case No. 2:23-cv-04303

NINO KHAKHIAVILI, on behalf of herself and all others similarly situated,

Plaintiff,

v.

ENZO BIOCHEM, INC. and ENZO CLINICAL LABS, INC.,

Defendants.

Case No. 2:23-4315

SHANA MCHUGH, individually and on behalf of all others similarly situated,

Plaintiff,

v.

ENZO BIOCHEM, INC., ENZO CLINICAL LABS, INC., and LAB CORPORATION OF AMERICA HOLDINGS,

Defendants.

Case No. 2:23-cv-04326

STEVEN GRIFFIN, on behalf of himself and all others similarly situated,

Plaintiff,

v.

ENZO BIOCHEM, INC., and ENZO CLINICAL LABS INC.,

Defendants.

Case No. 1:23-4351

MARK GUTHART, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

ENZO BIOCHEM, INC., ENZO CLINICAL
LABS, INC., and LAB CORPORATION OF
AMERICA HOLDINGS,

Defendants.

Case No. 2:23-04364

MARJORIE WEINMAN, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

ENZO BIOCHEM, INC.,

Defendant.

Case No. 1:23-cv-04393

JEFFREY ABRAHAM, on behalf of himself
and all others similarly situated,

Plaintiff

v.

ENZO BIOCHEM, INC.,

Defendant.

Case No. 1:23-cv-04408

DORINDA BYNUM, on behalf of herself and all others similarly situated,

Plaintiff,

v.

ENZO BIOCHEM, INC., ENZO CLINICAL LABS, INC. and LAB CORPORATION OF AMERICA HOLDINGS,

Defendants.

Case No. 2:23-cv-04474

MARGO KUPINSKA, on behalf of herself and all others similarly situated,

Case No. 2:23-cv-04503

Plaintiff,

v.

ENZO BIOCHEM, INC., ENZO CLINICAL LABS, INC., and LAB CORPORATION OF AMERICA HOLDINGS, INC.

Defendants.

IZZA HAFEEZ SHAH, on behalf of herself and all others similarly situated,

Case No. 2:23-cv-04511

Plaintiff,

v.

ENZO BIOCHEM, INC. and ENZO CLINICAL LABS, INC.

Defendants.

ELYSSA CRIMENI and MARQUIS SIMON,
on behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

ENZO BIOCHEM, INC. and ENZO
CLINICAL LABS, INC.

Defendants.

MARY ANN MULLANE, on behalf of herself
and all others similarly situated,

Case No. 23-cv-04538

Plaintiff,

v.

ENZO BIOCHEM, INC. and ENZO
BIOCHEM LABS, INC.

Defendants.

GITA GARFINKEL, on behalf of herself and
all others similarly situated,

Case No. 23-cv-04573

Plaintiff,

v.

ENZO BIOCHEM, INC., ENZO CLINICAL
LABS, INC. and LAB CORPORATION OF
AMERICAN HOLDINGS,

Case No. 23-cv-04445

Defendants.

KATHRYN MORTENSEN, on behalf of herself and all others similarly situated,

Plaintiff,

v.

ENZO BIOCHEM, INC., ENZO CLINICAL LABS, INC., and LAB CORPORATION OF AMERICA HOLDINGS,

Defendants.

ROBERT PASTORE, EMILY MARTORANO, and GIOMAR REYES, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

ENZO CLINICAL LABS, INC. and ENZO BIOCHEM, INC.

Defendants.

PAULA MAGNANI, on behalf of herself and others similarly situated,

Plaintiff,

v.

ENZO CLINICAL LABS, INC. and ENZO BIOCHEM, INC.

Defendants.

Case No. 2:23-cv-04656

Case No. 2:23-cv-04636

Case No. 2:23-cv-04749

STIPULATION CONCERNING CONSOLIDATION AND TO SET A BRIEFING SCHEDULE REGARDING ADDITIONAL APPLICATIONS FOR APPOINTMENT OF INTERIM LEAD COUNSEL

WHEREAS, on June 9, 2023, the first action against Defendants Enzo Biochem, Inc. and Enzo Clinical Labs, Inc. (collectively, "Enzo Defendants") and Defendant Laboratory Corporation

of America Holdings (“Labcorp”) ¹ arising out of a ransomware incident on Enzo Defendants’ computer network between April 4 and April 6, 2023 (the “Data Incident”) was filed in this Court (*Epstein v. Enzo Biochem, Inc. et al.*, No. 2:23-cv-04282 (E.D.N.Y.));

WHEREAS, since the date of that filing, there have been 17 additional cases filed; as of this date, there are 18 cases on file arising out of the Data Incident;

WHEREAS, on June 15, counsel for the first nine actions filed—*Epstein, Johnson, McHugh, Khakhiashvili, Netrosio, Griffin, Guthart, Weinman, and Abraham*—filed a motion to consolidate the related actions. (See *Epstein*, ECF No. 7). Plaintiffs in the *Epstein, Johnson, Khakhiashvili, Netrosio, Griffin, Guthart* and *Abraham* actions (the “*Epstein* Group”) further moved for the appointment of interim lead class counsel (see *Epstein*, ECF No. 7);

WHEREAS, plaintiffs’ counsel in all 17 actions filed to date met and conferred on June 21 via Zoom, and via email thereafter, and agree that consolidation of the above-captioned related actions is warranted;

WHEREAS, during the June 21 meet and confer, counsel for plaintiffs not in the *Epstein* Group stated that they will also be filing applications for the appointment of interim class counsel on behalf of their plaintiffs and the proposed class pursuant to Fed. R. Civ. P. 23(g);

WHEREAS, plaintiffs’ attorneys agreed that any such additional cross-applications for appointment of interim class counsel shall be filed no later than July 10, 2023;

¹ Labcorp states that it is not a proper defendant in this litigation. Labcorp further states: (1) It has entered into an Asset Purchase Agreement with Enzo Biochem, Inc. and Enzo Clinical Labs, Inc. that is expected to close later this year; and (2) Plaintiffs’ allegations stem from a data security incident suffered by Enzo and Enzo and Labcorp further believe that any liabilities arising from the data security incident, litigation, and alleged harms are not—and will not become—Labcorp liabilities. Labcorp therefore takes no position regarding Plaintiffs’ Motion to Consolidate (ECF No. 7) or this Stipulation.

WHEREAS, counsel for plaintiffs have conferred with counsel for Defendants, and they indicated that Defendants support consolidation of the above-captioned actions and take no position on the appointment of interim class counsel;

WHEREAS, plaintiffs in the related cases request that the Court relieve Defendants from responding to the initial complaints filed in the above-captioned actions, and instead set a schedule for the filing of a Consolidated Amended Complaint within forty-five (45) days from the entry of an Order appointing interim class counsel;

NOW, THEREFORE, the undersigned parties, through their attorneys and subject to the Court's approval, stipulate and agree to the following:

1. The following related actions shall be consolidated for all purposes:

- *Epstein v. Enzo Biochem, Inc. et al*, No. 2:23-cv-04282-GRB-AYS (E.D.N.Y.);
- *Johnson v. Enzo Biochem, Inc. et al*, No. 2:23-cv-0491-JMA-LGD (E.D.N.Y.);
- *McHugh et al v. Enzo Biochem, Inc.*, No. 2:23-cv-04326 (E.D.N.Y.);
- *Khakhiashvili v. Enzo Biochem, Inc. et al*, No. 1:23-cv-04315 (E.D.N.Y.);
- *Netrosio v. Enzo Biochem, Inc. et al*, No. 2:23-cv-04303 (E.D.N.Y.);
- *Griffin v. Enzo Biochem, Inc. and Enzo Clinical Labs, Inc.*, No. 1:23-cv-04351 (E.D.N.Y.);
- *Guthart v. Enzo Biochem, Inc., Enzo Clinical Labs, Inc., And Lab Corporation of America Holdings*, No. 2:23-cv-04364 (E.D.N.Y.);
- *Weinman v. Enzo Biochem, Inc.*, No. 1:23-cv-04393 (E.D.N.Y.);
- *Abraham v. Enzo Biochem, Inc.*, No. 1:23-cv-04408 (E.D.N.Y.);
- *Bynum v. Enzo Biochem, Inc. et al.*, No. 2:23-cv-4474 (E.D.N.Y.);
- *Kupinska v. Enzo Biochem, Inc. et al.*, No 2:23-cv-04503 (E.D.N.Y.);
- *Shah v. Enzo Biochem, Inc. et al.*, No. 2:23-cv-04511 (E.D.N.Y.);

- *Crimeni v. Enzo Biochem, Inc. et al.*, No. 2:23-cv-04538 (E.D.N.Y.);
- *Mullane v. Enzo Biochem, Inc. et al.*, No. 2:23-cv-04573 (E.D.N.Y.);
- *Garfinkel v. Enzo Biochem, Inc. et al.*, No. 2:23-cv-04445 (E.D.N.Y.);
- *Mortensen v. Enzo Biochem, Inc. et al.*, No. 2:23-cv-04656 (E.D.N.Y.);
- *Pastore et al. v. Enzo Biochem, Inc. et al.*, No. 2:23-cv-04636 (E.D.N.Y.); and
- *Magnani v. Enzo Biochem, Inc., et al.*, No. 2:23-cv-04749 (E.D.N.Y.).

The *Epstein* case is designated as the lead case. All papers filed in the Consolidated Action shall be filed under Case No. 2:23-4282 and shall bear the following caption:

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

IN RE ENZO BIOCHEM DATA SECURITY
LITIGATION

Lead Case No.: 2:23-4282

This Document Relates To:

2. All future actions filed in, or transferred to, this District that are related to this Consolidated Action shall be consolidated in the consolidated action, *In re Enzo Biochem Data Security Litig.*, 2:23-4282, upon stipulation of the parties.
3. Any additional motions for the appointment of interim class counsel shall be filed on July 10, 2023.
4. Counsel for plaintiffs and Defendant do not intend to file responses to any motion for appointment of interim class counsel and therefore briefing on the motions to appoint interim class counsel under Fed. R. Civ. P. 23(g) will be complete as of July 10, 2023.

5. Defendants shall be relieved from responding to the initial complaints filed in the above-captioned actions until the Court issues an Order on the appointment of interim lead class counsel.

6. Plaintiffs shall file a Consolidated Amended Complaint within forty-five (45) days from entry of the Order appointing interim lead class counsel.

IT IS SO STIPULATED AND AGREED TO THIS 26 day of June, 2023.

By:

**All pending and future cases
shall remain open until
resolution of lead case.*

/s/ Raina C. Borrelli
TURKE & STRAUSS LLP
Raina C. Borrelli
613 Williamson Street, Suite 201
Madison, Wisconsin 53703
Telephone: (608) 237-1775
raina@turkestrauss.com

James J. Bilsborrow
WEITZ & LUXENBERG, PC
700 Broadway
New York, New York 10003
Telephone: (212) 558-5500
jbilsborrow@weitzlux.com

Attorneys For Plaintiff Eliana Epstein

/s/ William B. Federman
FEDERMAN & SHERWOOD
William B. Federman
10205 N. Pennsylvania Ave.
Oklahoma City, Oklahoma 73120
Telephone: (405) 235-1560
wbf@federmanlaw.com

Attorneys for Plaintiff Tony Johnson

/s/ Samantha E. Holbrook
SHUB & JOHNS LLC
Jonathan Shub
Benjamin F. Johns*

Samantha E. Holbrook*
Four Tower Bridge
200 Barr Harbor Drive, Suite 400
Conshohocken, PA 19428
Telephone: (610) 477-8380
jshub@shublawyers.com
bjohns@shublawyers.com
sholbrook@shublawyers.com

Attorneys for Plaintiff Nino Khakhiashvili

/s/ Mason A. Barney
SIRI & GLIMSTAD LLP
Mason A. Barney
Tyler J. Bean*
745 Fifth Avenue, Suite 500
New York, New York 10151
Telephone: (212) 532-1091
mbarney@sirillp.com
tbean@sirillp.com

Attorneys for Plaintiff Marie Netrosio

/s/ Charles E. Schaffer
LEVIN SEDRAN & BERMAN LLP
Michael M. Weinkowitz
Charles E. Schaffer*
Nicholas J. Elia*
510 Walnut Street, Suite 500
Philadelphia, PA 19106
Telephone: (215) 592-1500
mweinkowitz@lfsblaw.com
cschaffer@lfsblaw.com
nelia@lfsblaw.com

s/ Joseph M. Lyon
THE LYON FIRM
Joseph M. Lyon*
2754 Erie Ave.
Cincinnati, OH 45208
Telephone: (513) 381-2333
jlyon@thelyonfirm.com

Attorneys for Plaintiff Steven Griffin

/s/ Charles E. Schaffer

LEVIN SEDRAN & BERMAN LLP
Michael M. Weinkowitz
Charles E. Schaffer*
Nicholas J. Elia*
510 Walnut Street, Suite 500
Philadelphia, PA 19106
Telephone: (215) 592-1500
mweinkowitz@lfsblaw.com
cschaffer@lfsblaw.com
nelia@lfsblaw.com

Attorneys for Plaintiff Mark Guthart

/s/ Gary M. Klinger

Gary M. Klinger
MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN, PLLC
227 W. Monroe Street, Suite 2100
Chicago, IL 60606
Telephone.: (866) 252-0878
gklinger@milberg.com

Vicki J. Maniatis
MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN, LLC
100 Garden City Plaza, Suite 500
Garden City, NY 11530
Telephone: 866-252-0878
vmaniatis@milberg.com

Attorneys for Plaintiff Marjorie Weinman

/s/ Andrew R. Tate

Andrew R. Tate*
PEIFFER WOLF CARR
KANE CONWAY & WISE, LLP
235 Peachtree Street NE, Suite 400
Atlanta, GA 30303
Telephone: (404) 282-4806
atare@peifferwolf.com

David S. Almeida
Elena A. Belov
ALMEIDA LAW GROUP LLC

849 W. Webster Avenue
Chicago, Illinois 60614
Telephone: (312) 576-3024
david@almeidalawgroup.com
elena@almeidalawgroup.com

Brandon M. Wise
PEIFFER WOLF CARR
KANE CONWAY & WISE, LLP
818 Lafayette Ave., Floor 2
St. Louis, MO 63104
Telephone: (314) 833-4825
bwise@peifferwolf.com

Attorneys for Plaintiff Shana McHugh

/s/ Melissa R. Emert
Melissa R. Emert
Gary S. Graifman
KANTROWITZ, GOLDHAMER &
GRAIFMAN, PC
16 Squadron Blvd., Suite 106
New City, NY 10956
Telephone: 845-356-2570
memert@kgglaw.com
ggraifman@kgglaw.com

KANTROWITZ, GOLDHAMER &
GRAIFMAN, PC
135 Chestnut Ridge Road, Suite 200
Montvale, NJ 07645
Telephone: 845-356-2570

Attorneys for Plaintiff Jeffrey Abraham

/s/ Kevin G. Cooper
Kevin G. Cooper, Esq.
James E. Cecchi, Esq.
Jordan M. Steele, Esq.
CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO,
P.C.
5 Becker Farm Road
Roseland, New Jersey 07068
Tel.: (973) 994-1700
kcooper@carellabyrne.com

jcecchi@carellabyrne.com
jsteele@carellabyrne.com

Matthew R. Mendelsohn (NJ
015582005)
MAZIE SLATER KATZ &
FREEMAN, LLC
103 Eisenhower Parkway
Roseland, New Jersey 07068
Te.: (973) 228-9898
mrm@mazieslater.com

*Attorneys for Plaintiff Bynum and the
Proposed Class*

/s/ Todd S. Garber
Todd S. Garber, Esq. | Partner
Finkelstein, Blankinship,
Frei-Pearson & Garber, LLP
One North Broadway, Suite 900
White Plains, NY 10601
Tel: (914) 298-3283
www.fbfglaw.com

Attorneys for Plaintiff Garfinkel

/s/ Lori G. Feldman
Lori G. Feldman
GEORGE FELDMAN MCDONALD,
PLLC
102 Half Moon Bay Drive
Croton-on-Hudson, NY 10520
Telephone: 917-983-9321
lfeldman@4-justice.com

Attorneys for Plaintiff Margo Kupinska

/s/ Jennifer Czeisler
James M. Evangelista
EVANGELISTA WORLEY LLC
500 Sugar Mill Road Suite 245A
Atlanta, GA 30350
Tel.: 404-205-8400
Fax: 404-205-8395
Email: jim@ewlawllc.com

Jennifer Czeisler
JKC LAW, LLC
269 Altessa Blvd. Melville, NY 11747
Tel: 516-457-9571
Email: jennifer@jkclawllc.com

Attorneys for Plaintiffs Elyssa Crimeni and Marquis Simon

/s/ John A. Yanchunis
John A. Yanchunis*
Jyanchunis@forthepeople.com
Jean Sutton Martin*
MORGAN & MORGAN
COMPLEX LITIGATION GROUP
201 North Franklin Street 7th Floor
Tampa, Florida 33602
T: (813) 223-5505
F: (813) 223-5402

Attorneys for Plaintiff Shah

/s/ Justin S. Nematzadeh
NEMATZADEH PLLC
Justin S. Nematzadeh
101 Avenue of the Americas, Suite 909
New York, NY 10013
Telephone: (646) 799-6729
jsn@nematlawyers.com

ERICKSON KRAMER OSBORNE LLP
Julie C. Erickson*
Elizabeth A. Kramer*
Kevin M. Osborne*
44 Tehama Street
San Francisco, CA 94105
Telephone: (415) 635-0631
julie@eko.law
elizabeth@eko.law
kevin@eko.law

Attorneys for Plaintiffs Robert Pastore, Emily Martorano, and Giomar Reyes

/s/ Michael A. Toomey
Michael A. Toomey

BARRACK, RODOS & BACINE
11 Times Square
640 8th Ave., 10th Flo.
New York, NY 10022
T: (212) 688-0782
mtoomey@barrack.com

Stephen R. Basser*
Samuel M. Ward*
BARRACK, RODOS & BACINE
600 West Broadway, Suite 900
San Diego, CA 92101
T: (619) 230-0800
F: (619) 230-1874
sbasser@barrack.com
sward@barrack.com

John G. Emerson*
EMERSON FIRM, PLLC
2500 Wilcrest, Suite 300
Houston, TX 77042
T: 800-551-8649
F: 501-286-4659
jemerson@emersonfirm.com

Counsel for Plaintiff Mary Ann Mullanen

/s/ Brian P. Murray
Brian P. Murray (BM-9954)
GLANCY PRONGAY & MURRAY
230 Park Avenue, Suite 358
New York, NY 10169
T: (212) 682-5340
F: (212) 884-0988
bmurray@glancylaw.com

Counsel for Plaintiff Mortensen

/s/Steven M. Nathan
Steven M. Nathan
HAUSFELD LLP
33 Whitehall Street
Fourteenth Floor
New York, NY 10004
Tel. 646.357.1100
snathan@hausfeld.com

James J. Pizzirusso*
Amanda V. Boltax*
HAUSFELD LLP
888 16th Street N.W.
Suite 300
Washington, D.C. 20006
Tel. 202.540.7200
jpizzirusso@hausfeld.com
mboltax@hausfeld.com

Kim D. Stephens, P.S.*
Cecily C. Jordan*
TOUSLEY BRAIN STEPHENS PLLC
1200 Fifth Avenue, Suite 1700
Seattle, Washington 98101-3147
Tel. 206.682.5600
Fax. 206.682.2992
kstephens@tousley.com
cjordan@tousley.com

Amy Keller*
DiCELLO LEVITT LLP
Ten North Dearborn Street
Sixth Floor
Chicago, Illinois 60602
Tel. 312.214.7900
akeller@dicellosevitt.com

Counsel for Plaintiff Magnani

/s/ Robyn M. Felstein
Robyn M. Felstein
Paul Karlsgodt
BAKER HOSTETLER
45 Rockefeller Plaza
New York, NY 1011-0100
T: (212) 589-4647
rfeldstein@bakerlaw.com
pkarlsgodt@bakerlaw.com

*Counsel for Defendants Enzo Biochem,
Inc. and Enzo Clinical Labs, Inc.*

**pro hac vice* application forthcoming

IT IS SO ORDERED:

July 10, 2023

Dated

/s/Gary R. Brown

Honorable Anne Y. Shields

Honorable Gary R. Brown

CERTIFICATE OF SERVICE

I, Raina C. Borrelli, hereby certify that on June 27, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record via the ECF system.

DATED this 27th day of June, 2023.

TURKE & STRAUSS LLP

By: /s/ Raina C. Borrelli

Raina C. Borrelli
raina@turkestrauss.com
TURKE & STRAUSS LLP
613 Williamson St., Suite 201
Madison, WI 53703
Telephone: (608) 237-1775
Facsimile: (608) 509-4423